



CORPORATION SERVICE COMPANY®

## Notice of Service of Process

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Transmittal Number: 16011665  
Date Processed: 12/20/2016

**Primary Contact:** Arlene Smith  
Liberty Mutual Insurance Company  
175 Berkeley Street  
Boston, MA 02116

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<b>Entity:</b>	Safeco Insurance Company Of America Entity ID Number 2781189
<b>Entity Served:</b>	Safeco Insurance Co. of America
<b>Title of Action:</b>	Claudio Gonzales vs. Molly Mackowitz
<b>Document(s) Type:</b>	Summons/Complaint
<b>Nature of Action:</b>	Contract
<b>Court/Agency:</b>	Bernalillo County District Court, New Mexico
<b>Case/Reference No:</b>	D-202-CV-2016-07623
<b>Jurisdiction Served:</b>	New Mexico
<b>Date Served on CSC:</b>	12/19/2016
<b>Answer or Appearance Due:</b>	30 Days
<b>Originally Served On:</b>	NM Superintendent of Insurance on 12/15/2016
<b>How Served:</b>	Certified Mail
<b>Sender Information:</b>	Narciso Garcia, Jr., LLC 505-265-5010

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Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**  
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)

EXHIBIT A

STATE OF NEW MEXICO  
**OFFICE OF SUPERINTENDENT OF INSURANCE**

Mailing Address: P.O. Box 1689, Santa Fe, NM 87504-1689

Physical Address: 1120 Paseo de Peralta, Room 428, Santa Fe, NM 87501

Main Phone: (505) 827-4601; Main Fax (505) 827-4734; Toll Free: 1-855-4-ASK-OSI

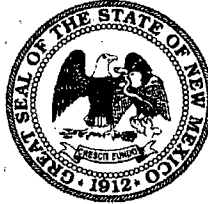
[www.osi.state.nm.us](http://www.osi.state.nm.us)

**SUPERINTENDENT OF  
INSURANCE**

John G. Franchini – (505) 827-4299

**DEPUTY SUPERINTENDENT**

Robert Doucette – (505) 827-4439



**Service of Process**

Room 432

(505) 827-4241

December 15, 2016

Safeco Insurance Co. of America  
C/O Corporation Service Company  
123 E. Marcy St. Ste. 101  
Santa Fe, NM 87501

Re: Claudio Gonzales vs. Molly Mackowitz, and Safeco Insurance Company of America  
D202CV2016-07623

Dear Mr. President:

In accordance with the provisions of NMSA 1978, Sections 59A-5-31 & 59A-32, enclosed is a copy of a Summons, Complaint to Recover Damages for Breach of Contract and Insurance Bad Faith Breach of Covenant of Good Faith and Fair Dealing, and Court-Annexed Arbitration Certification to Defendant Safeco Insurance Company of America on the above styled cause. Service has been accepted on your behalf on December 15, 2016.

Respectfully,

John G. Franchini, Superintendent

Enclosure

CERTIFIED MAIL 7012 3460 0003 1668 6458

**SECOND JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF BERNALILLO**

CLAUDIO GONZALES,

No.: D-202-CV-2016-07623

Plaintiff,

v.

MOLLY MACKOWITZ, and  
SAFECO INSURANCE COMPANY,

Defendants.

**SUMMONS**

TO: Safeco Insurance Company  
*c/o Office of Superintendent of Insurance*

**GREETINGS:**

You are hereby directed to serve a pleading or motion in response to the Complaint within 30 days after service of the Summons, and file the same, all as provided by law.

You are hereby notified that, unless you so serve and file a responsive pleading or motion, the Plaintiffs will apply to the Court for the relief demanded in the Complaint.

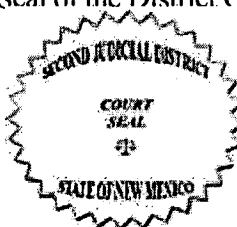
Attorney for Plaintiff:

Narciso Garcia, Jr., LLC  
2033 San Mateo NE  
Albuquerque, NM 87110  
(505) 265-5010

WITNESS the Honorable **NANCY J. FRANCHINI** District Judge of said Court of the State of New Mexico and the Seal of the District Court of said County.

12/9/2016

(SEAL)



JAMES A. NOEL  
CLERK OF THE DISTRICT COURT

By: *Patricia Serna*  
Patricia Serna, Deputy

NOTE: This summons does not require you to see, telephone or write to the District Judge of the Court in this matter. It does require you or your attorney to file your legal defense to this case in writing with the Clerk of the district Court within 30 days after the summons is legally served on you. If you do not do this, the party suing may get a Judgment by default against you. IF YOU WANT THE ADVICE OF A LAWYER AND DON'T KNOW ONE, YOU MAY WISH TO CALL THE STATE BAR STATEWIDE LAWYER REFERRAL SERVICE AT 797-6066.

**SECOND JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF BERNALILLO**

CLAUDIO GONZALES,

No.: D-202-CV-2016-07623

Plaintiff,

v.

MOLLY MACKOWITZ, and  
SAFECO INSURANCE COMPANY,

Defendants.

**COMPLAINT TO RECOVER DAMAGES FOR BREACH OF CONTRACT AND  
INSURANCE BAD FAITH BREACH OF COVENANT  
OF GOOD FAITH AND FAIR DEALING**

Plaintiff states:

1. Plaintiff was at all times material to the allegations of this Complaint a resident of the State of New Mexico. The incidents, acts and omissions giving rise to this Complaint occurred in New Mexico.
2. Defendant Safeco Insurance Company is a foreign corporation and/or a foreign resident duly authorized to transact and transacting business in the State of New Mexico as a liability insurer.
3. Defendant Molly Mackowitz is the claims adjuster assigned to adjust Plaintiff's underinsured motorist claim.
4. Defendant Safeco Insurance Company issued to Plaintiff, a Policy of Insurance No. Y7144478 ("the policy"), by the terms of which Defendant Safeco Insurance Company agreed to pay to Plaintiff all sums which an underinsured motorist would become legally obligated to pay to Plaintiff as damages during the policy term because of personal injury and

property damage. The policy was in full force and effect at all times material to the allegations of this Complaint.

5. Plaintiff has performed in a timely manner all duties and obligations required of him under the terms of the policy.

6. On October 1, 2014, Plaintiff was involved in an automobile accident with an underinsured motorist. The cause of the accident was the underinsured motorist's negligence. Plaintiff suffered bodily injuries in such accident.

7. The claim against the tortfeasor was settled for his policy limits of \$25,000.00. On October 5, 2015, Safeco Insurance Company authorized the policy limits settlement, a prerequisite before an underinsured motorist claim can proceed.

8. On November 3, 2015, Plaintiff forwarded a copy of all medical records and bills and requested that Safeco Insurance Company tender the underinsured motorist policy limits of \$75,000.00. His damages exceed these policy limits.

9. Defendants had the duty to act in good faith and deal fairly with Plaintiff.

10. Though the underinsured person's liability was clear and the Plaintiff's damages were clear, Defendants have failed to tender the remaining policy limits.

11. On April 14, 2016, Plaintiff inquired as to whether Safeco Insurance Company would agree to arbitration and whether it would agree to one arbitrator.

12. On May 4, 2016, Safeco responded that it would not agree to one arbitrator but would consider mediation.

13. On the same date Plaintiff inquired as to whom Safeco proposed as a mediator.

14. Not having received a response by June 30, 2016, Plaintiff notified Safeco that if it did not intend to respond that the case needed to move forward to arbitration. At that time, Plaintiff identified his arbitrator in accordance with the policy provisions.

15. On October 10, 2016, Plaintiff requested that Safeco identify its arbitrator.

16. On October 17, 2016, Safeco again inquired as to whether Plaintiff would mediate.

17. On the same date, Plaintiff again asked who Safeco proposed as a mediator.

18. On October 20, 2016, Defendant Mackowitz apologized for the delay and said "I am working on it and will get back to you shortly."

19. As of December 6, 2016, Defendants have failed to identify a proposed mediator, have failed to identify its arbitrator, and have failed to tender the policy limits.

20. Defendants breached Safeco Insurance Company's contract with Plaintiff.

21. Defendants willfully, recklessly and without regard for the rights of Plaintiff, breached their duty of good faith and fair dealing owed to Plaintiff regarding his underinsured motorist claim.

22. The amount in controversy does not exceed \$75,000.00, exclusive of interest and costs.

WHEREFORE, Plaintiff demands judgment against Defendants for the following:

a) The amount of Plaintiff's actual damages resulting from Defendant's wrongful acts and omissions as stated in this Complaint;

b) Exemplary and punitive damages in an amount that will deter Defendants and others from such wrongful conduct in the future and punish Defendants for its behavior alleged in this Complaint; and such other relief as the Court deems appropriate.

c) Pre-and post-judgment interest as provided by law.

Respectfully Submitted:

GARCIA LAW OFFICE

By: /s/ Narciso Garcia, Jr., LLC  
NARCISO GARCIA, JR., LLC  
Attorney for Plaintiff  
2033 San Mateo Blvd., N.E.  
Albuquerque, NM 87110  
505) 265-5010  
narcisolaw@aol.com

**SECOND JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF BERNALILLO**

CLAUDIO GONZALES,

No.: D-202-CV-2016-07623

Plaintiff,

v.

MOLLY MACKOWITZ, and  
SAFECO INSURANCE COMPANY,

Defendants.

**COURT-ANNEXED ARBITRATION CERTIFICATION**

Plaintiff, by and through counsel, Narciso Garcia, Jr., pursuant to Second Judicial District  
Local Rules, Rule LR2-603, certifies as follows:

- ☐ This party seeks only a money judgment and the amount sought does not exceed twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs, and attorney fees.
- ☒ This party seeks relief other than a money judgment and/or seeks relief in excess of twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs, and attorney fees.

GARCIA LAW OFFICES

By: /s/ Narciso Garcia, Jr., LLC  
NARCISO GARCIA, JR., LLC  
Attorney for Plaintiff  
2033 San Mateo Blvd., N.E.  
Albuquerque, New Mexico 87110  
(505) 265-5010

I HEREBY CERTIFY that I attached a copy of this Certification to the Complaint  
for service upon Defendant.

/s/ Narciso Garcia, Jr., LLC  
NARCISO GARCIA, JR., LLC



Office of Superintendent of Insurance  
Service of Process  
PO Box 1689  
Santa Fe, NM 87501-1689

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U.S. POSTAGE >> PITNEY BOWES

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Safeco Insurance Co. of America  
C/O Corporation Service Company  
123 E. Marcy St. Ste. 101  
Santa Fe, NM 87501

